

## REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-8 were pending in this application. In this Amendment, Applicant has amended claims 1, 5, and 8, has canceled claims 2-4, 6, and 7, and has added new claim 9. Accordingly, claims 1, 5, 8, and 9 will be pending upon entry of this Amendment.

In the Office Action mailed October 8, 2008, the Examiner rejected claims 1-4 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,332,488 to Newton ("Newton"). Claims 5-7 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,413,582 to Eaton ("Eaton"). Claim 8 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Newton in view of U.S. Patent No. 1,288,130 to Nagelman ("Nagelman"). Applicant has canceled claims 2-4, 6, and 7 without prejudice to or waiver of the subject matter recited therein, therefore rendering the rejections of those claims moot. To the extent that the rejections might still be applied to the currently pending claims, Applicant respectfully traverses the rejections.

### **Claims 1 and 8**

Applicant has amended claim 1 to clarify features distinguishable over Newton relating to the fastening and positioning of the recited wire-like pieces, as well as the stretchable nature of the muscle development device. Specifically, Applicant has amended claim 1 to recite that the wire-like piece is "a set of wire-like pieces that are placed in a direction generally perpendicular to the lengthwise direction of said tight fitting band at a predetermined distance along the length

of said tight fitting band” and that the wire-like piece is “provided on the inner surface of the outer segment of the tight fitting band opposite to the muscles and just outside the tube with the wire-like piece being fastened to the tight fitting band with a stretchable seam tape.” Support for those amendments can be found in the present application, for example, at page 15, lines 9-22 and in Figures 2, 3A, and 3B. These features enable the convenient determination of the position of the wire-like pieces and the adjustment of compression force when the size of a muscle changes.

Newton discloses a blood pressure cuff having transversely disposed spaced metal reinforcing rods 4 held inside stitched pockets 3. (Column 1, lines 34-49.) The cuff is preferably made of single strip of fabric folded and stitched. (Column 1, lines 49-50.) However, that construction of the cuff and its pockets fails to anticipate or render obvious the positioning and fastening features recited in the invention of claim 1. Specifically, Newton fails to teach or suggest at least a wire-like piece provided on the inner surface of the outer segment of a tight fitting band opposite to the muscles and just outside the tube with the wire-like piece being fastened to the tight fitting band with a stretchable seam tape. Instead, Newton holds rods 4 in stitched pockets, with the rods 4 not just outside the bag 14.

In addition, the recited feature of “a set of wire-like pieces that are placed in a direction generally perpendicular to the lengthwise direction of said tight fitting band at a predetermined distance” enables the convenient determination of the position of the wire-like piece at the inner surface of the outer segment of the tight fitting band opposite to the muscles and just outside the tube. It would be troublesome to fasten a set of wire-like pieces at appropriate positions. Newton fails to solve that problem. In contrast, with the present invention, it is easy to

determine the position of the wire-like piece being fastened to a seam tape. In this manner, the present invention provides advantageous surprising results.

Further, the recited seam tape of amended claim 1 is stretchable, which provides significant beneficial effects. Application of a proper compression force to the base of the limb can be very important for the muscle development method using the muscle development device of claim 1. However, when a user performs exercises (*e.g.*, the user bends an elbow or a knee), the compression force to the base of the limb may unintentionally increase due to growth of the muscle size, or circumference. To avoid excessive increases in compression force, the muscle development device is stretchable in the lengthwise direction as a whole, thus applying an appropriate compression force even when the muscle size has changed. The muscle development device using the stretchable seam tape can be freely stretched, such that the muscle development device is suitable for the muscle development method. Newton fails to teach or suggest that stretchable feature.

The invention of claim 1 therefore recites features not disclosed by Newton and produces effects not provided by Newton. Accordingly, Applicant respectfully submits that amended claim 1 is patentable over Newton. In addition, Applicant respectfully submits that dependent claim 8 (amended herein to correct matters of form) is also patentable due at least to its dependence on an allowable base claim and for the additional features recited therein. In that regard, Nagelman fails to cure the deficiencies of Newton with respect to claim 8.

#### **Claims 5 and 9**

Applicant has amended claim 5 to clarify features distinguishable over Newton and Eaton relating to the inclusion of a stretchable seam tape adhered to the tube and to the relative

stretching rates as between the seam tape and the tube, which enable the convenient control of changes of the stretching rates of the inwards and outwards of the tube. Specifically, Applicant has amended claim 5 to recite that the muscle development device further comprises a seam tape, which is stretchable but of which stretching rate is lower than that of the tube, adhered to the tube on a side opposite to the muscles. Support for this amendment can be found in the present application, for example, relative to the discussion and figures associated with the fifth embodiment of the invention, at page 22, line 20 to page 23, line 13 and in Figure 10.

Eaton discloses a tube consisting of two sheets having different thicknesses. Eaton does not, however, teach or suggest a stretchable seam tape adhered to the tube on the side opposite to the muscles, wherein the stretching rate of the seam tape is lower than that of the tube.

Further, the feature "a seam tape, which is stretchable but of which stretching rate is lower than that of the tube, is adhered to the tube on the side opposite to the muscles" enables convenient control of the changes of the stretching rates of the inwards and outwards of the tube. Additionally, according to the muscle development device of claim 5, the changes of the stretching rates of the inwards and outwards of the tube may be controlled later by removing the seam tape from the tube, or attaching the seam tape to the tube. Eaton fails to teach or suggest those beneficial effects.

The invention of claim 5 therefore recites features not disclosed by Newton and Eaton and produces effects not provided by Newton and Eaton. Accordingly, Applicant respectfully submits that amended claim 1 is patentable over Newton and Eaton.

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Applicant has also added new claim 9, which depends from amended claim 5. Applicant respectfully submits that dependent claim 9 is also patentable due at least to its dependence on an allowable base claim and for the additional features recited therein.

In view of the foregoing, all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicant's undersigned representative at the number listed below.

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